IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5766 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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GUJARAT STATE FERTILIZERS CO. LTD - Petitioner
Versus
UNION OF INDIA & 2 - Respondents

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Appearance :
NANAVATI ASSOCIATES for Petitioner.
MR JITENDRA MALKAN for Respondent No. 1.
NOTICE SERVED for Respondent(s) : 2,
MR BB NAIK for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 03/02/2006

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 226 of the Constitution of India praying for quashing and setting aside the impugned order dated 16.04.1991 passed by the Regional Provident Fund Commissioner, Gujarat State, Ahmedabad under Section 14 (B) of the Employees Provident Fund and Misc. Provisions Act, 1952.

2.Notice was issued on 22.08.1991 and interim relief was granted in terms of para 10 (B) whereby the operation, implementation and execution of the order was stayed by the Court. The petition was thereafter admitted and rule was issued on 18.10.1991. However, the Court has not continued the ad-interim relief and directed the petitioner to make the payment subject to the result of the petition. Pursuant to the said order, the petitioner has

made the payment of the amount of damages as stated in the impugned order.

3.On behalf of the respondent, appearance was filed and affidavit-in-reply was also filed denying the contentions raised in the petition.

4.The impugned order is passed under Section 14 (B) of the Act and appeal is provided against the said order before the Tribunal in view of the provisions contained in Section 7-I of the Employees Provident Fund and Misc. Provisions Act, 1952. Section 7-I reads as under :-

7-I. Appeals to Tribunal

(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-sections (3), or Sub-section (4) of Sec. 1, or Sec. 3, or sub-section (1) of Sec. 7-A, or Sec. 7-B [except an order rejecting an application for review referred to in sub-section (5) of thereof], or Sec. 7-C or Sec. 14-B, may prefer an appeal to a Tribunal against such notification or order.

5.Since the order passed under Section 14-B of

the Act is appealable to the Tribunal, the Court is not inclined to go into the merits of the matter and direct the petitioner to approach the Tribunal ventilating its grievances which are raised in the present petition.

6.It is true that the petition is filed in 1991. More than 15 years have passed. The question of limitation may, therefore, arise. Since the petitioner is pursuing this remedy before this Court, the delay arose as a result of pursuing its remedy before this Court may be condoned by the Tribunal. The petitioner is, therefore, directed to approach the Tribunal within six weeks from the date of receipt of writ from this Court or from the date of receipt of certified copy of this order, whichever is earlier and if such appeal is filed within the stipulated period, the same may be entertained on its own merits without entertaining any

objection with regard to delay. It is made clear that the Court has not gone into the merits of the matter or has not expressed any opinion on the issue involved in this petition. The Tribunal will decide the appeal on its own merits and without being influenced by the present order.

7.Since the petitioner has already made the payment, there is no question of pre-deposit of the amount. If the petitioner succeeds in appeal, the amount paid by the petitioner would be refunded to the petitioner in accordance with law.

8.Subject to the aforesaid direction, this petition is accordingly disposed of. Rule is made absolute to the above extent, without any order as to costs.

[K.A. PUJ, J.]

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